

35860
DO

SERVICE DATE – MAY 31, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No 219X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–IN
DOUGLAS AND CHAMPAIGN COUNTIES, IL

Decided: May 26, 2005

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 9.87-mile line of railroad known as the Westville Industrial Lead, extending from milepost 164.87 at Villa Grove to the end of the track at milepost 155.0 near Broadlands, in Douglas and Champaign Counties, IL. Notice of the exemption was served and published in the Federal Register on May 4, 2005 (70 FR 23294-95). The exemption is scheduled to become effective on June 3, 2005.

The Board’s Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on May 9, 2005. In the EA, SEA states that, at the time the EA was prepared, the United States Army Corps of Engineers (USCOE) had not responded to the railroad’s environmental report.¹ SEA states that, because UP intends to remove bridges during salvaging operations, permits may be required from the USCOE. Therefore, SEA recommends that, prior to commencement of any salvage activities, UP be required to consult with both the USCOE’s Rock Island and Louisville Districts regarding USCOE requirements.

In the EA, SEA also states that the United States Environmental Protection Agency (EPA) Region 5, has expressed concerns regarding the removal and salvage methods to be used by UP during the proposed abandonment, the final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills from construction equipment, and erosion mitigation practices to be utilized during abandonment activities. Therefore, SEA recommends that, prior to commencement of any salvage activities on this project, UP be required to consult with the EPA, Region 5, to ensure that EPA’s concerns are adequately addressed.

¹ SEA notes that the railroad inadvertently sent the environmental reports to the Chicago District rather than to the Rock Island and Louisville Districts.

The EPA also suggests, and SEA agrees, that UP be required to follow these mitigation measures during salvage activities: utilize the right-of-way and existing public and private crossings when removing materials, particularly in areas adjacent to the Jordan Slough, a stream in Douglas County; utilize silt fencing; restore disturbed soil to original grade, and reseed disturbed areas with native species.

The EPA has further expressed concerns regarding bridge and culvert maintenance. The EPA recommends that maintenance provisions be included in any real estate agreements that facilitate the transfer of properties since 75 percent of the right-of-way is reversionary. The EPA also recommends culvert maintenance at least once per season to prevent obstructions and floods. The EPA suggests that any obstruction materials be disposed of away from the streambed and any use of equipment in the streambed be minimized and scheduled to coincide with periods of low or normal flow, and that native flora be used to revegetate around culvert ends to prevent erosion.

In the EA, SEA explains that, because the railroad intends to remove bridges during salvage operations, SEA has limited its analysis to addressing EPA's concerns regarding culvert maintenance. SEA notes that, in conducting environmental review in abandonment cases, the Board's role is limited to the anticipated impacts of the abandonment proposal before the agency, e.g., the likely diversion of traffic to other lines or transportation modes and the likely disruptive consequences of removing the track and related structures. While the Board can impose reasonable conditions on the grant of abandonment authority to address concerns that have been raised regarding the restoration of rail property for non-rail use, the Board will generally not require mitigation for existing conditions or railroad operations. Accordingly, it would not be appropriate or consistent with Board precedent for SEA to recommend a condition regarding responsibility for future maintenance. Therefore, SEA recommends that, prior to commencement of any salvage activities, UP be required to contact the EPA to discuss the concerns regarding the condition of culverts and erosion control measures.

Finally, SEA states that, at the time the environmental assessment was prepared, the Illinois Historic Preservation Agency (the State Historic Preservation Office or SHPO) had not completed its review of the proposed abandonment. Therefore, SEA recommends that UP retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

No comments to the EA were received by the May 24, 2005 due date. Accordingly, the conditions recommended by SEA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that UP: (1) prior to commencement of any salvage activities, consult with both the USCOE's Rock Island and Louisville Districts regarding USCOE requirements, (2) prior to commencement of any salvage activities, consult with the EPA, Region 5, to discuss EPA's concerns regarding: removal and salvage methods to be used, final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills from construction equipment, culvert maintenance, and erosion mitigation practices to be utilized during abandonment activities; (3) during salvage activities, utilize the right-of-way and existing public and private crossings when removing materials, particularly in areas adjacent to the Jordan Slough, utilize silt fencing, restore disturbed soil to original grade, and reseed disturbed areas with native species; and (4) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until the completion of the section 106 process of the NHPA.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams
Secretary